

<b>STATE BOARD OF PHARMACY STATE OF COLORADO OFFICE OF ADMINISTRATIVE COURTS</b>  633 17 <sup>th</sup> Street, Suite 1300, Denver, Colorado 80202	
<b>COLORADO STATE BOARD OF PHARMACY,</b> Petitioner,  vs.  <b>WESTERN STATES PHARMACY,</b> REGISTRATION No. PDO 601,  Respondent.	<div style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></div> <hr/> Case No.:
<p style="text-align: center;"><b>AMENDED ORDER OF SUMMARY SUSPENSION, NOTICE OF DUTY TO ANSWER, NOTICE TO SET AN INFORMAL PREHEARING CONFERENCE, NOTICE OF HEARING, AND NOTICE OF CHARGES</b></p>	

TO: WESTERN STATES PHARMACY

### **ORDER OF SUMMARY SUSPENSION**

The State Board of Pharmacy (“Board”), having conducted an investigation as to the matters referenced below, HEREBY FINDS:

1. Respondent, Western States Pharmacy (“Respondent Pharmacy”) has been located in the State of Colorado at all times relevant herein.
2. The Board has jurisdiction over Respondent Pharmacy and the subject matter herein.
3. Reasonable grounds exist to believe, and the Board so finds, that Respondent Pharmacy has deliberately and willfully violated the Pharmaceuticals and Pharmacists Act. The grounds are more fully set forth in the Notice of Charges attached hereto and are incorporated herein by this reference.

4. Based on the information contained in the attached Notice of Charges, reasonable grounds exist to believe, and the Board so finds, that the public health, safety, and welfare imperatively require that emergency action be taken.

THEREFORE, IT IS HEREBY ORDERED that the registration of Western States Pharmacy as a prescription drug outlet in the State of Colorado be, and hereby is, summarily suspended pending proceedings to determine whether Respondent Pharmacy's registration as a prescription drug outlet should be further disciplined in accordance with §§12-22-125 and 12-22-125.2 of the Colorado Revised Statutes ("CRS") (2005).

Pending the outcome of said proceedings, IT IS FURTHER ORDERED that Western States Pharmacy:

1. immediately cease, desist, and refrain from any further acts for which a registration as a prescription drug outlet is required by the laws of the State of Colorado upon hand-delivery of this Summary Suspension; AND
2. within seventy two (72) hours of hand-delivery of this Summary Suspension, submit its registration card to the Board; AND
3. within seventy-two (72) hours of hand-delivery of this Summary Suspension, prepare a complete, detailed inventory of all drugs in Respondent Pharmacy, including the name, strength, and quantity of each drug; AND
4. within seventy-two (72) hours of hand-delivery of this Summary Suspension, provide a written copy of said complete, detailed inventory to the Board; AND
5. within seventy-two (72) hours of hand-delivery of this Summary Suspension, remove all drugs and records, including all files and dispensation records, to another registered location; AND
6. within seventy-two (72) hours of hand-delivery of this Summary Suspension, notify the Board in writing of the address, registration number, and DEA registration number of the location to which said drugs and records have been removed.

DATED this \_\_\_\_ day of \_\_\_\_\_ 2006.

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Wendy Anderson  
Program Director  
Colorado State Board of Pharmacy

### **NOTICE OF DUTY TO ANSWER**

RESPONDENT PHARMACY IS HEREBY NOTIFIED that, pursuant to CRS §24-4-105(2)(b), Respondent Pharmacy is hereby required to file a written answer to the attached Notice of Charges with The Office of Administrative Courts, 633 Seventeenth Street, Suite 1300, Denver, CO 80202, within thirty (30) days after the hand-delivery of this Order of Summary Suspension, Notice of Duty to Answer, Notice to Set an Informal Prehearing Conference, Notice of Hearing, and Notice of Charges. Respondent Pharmacy must also mail a copy of such answer to the Board's attorney who has signed this Notice of Duty to Answer, Notice to Set an Informal Prehearing Conference, Notice of Hearing, and Notice of Charges below.

If Respondent Pharmacy fails to file its written answer within thirty (30) days, an order entering a default decision may be issued against its Colorado registration as a prescription drug outlet for the relief requested in the Notice of Charges, without further notice, or such other penalties which may be provided for by law, without further notice.

### **NOTICE TO SET AN INFORMAL PREHEARING CONFERENCE**

RESPONDENT PHARMACY IS HEREBY NOTIFIED that the attorney for the State Board of Pharmacy, State of Colorado, will appear at **9:30 a.m. on September 22, 2006**, in the Office of Administrative Courts, 633 Seventeenth Street, Denver, CO 80202 in order to set a date and obtain a location for a prehearing conference regarding the following Notice of Charges. At the informal prehearing conference, the parties will obtain a hearing date, arrange an expedited discovery schedule, and obtain motion dates as necessary. Respondent Pharmacy may be present in person by a representative, by counsel, or by telephone by calling the Office of Administrative Courts at (303) 866-5797 or (303) 866-2000 at the time and date indicated above.

### **NOTICE OF HEARING**

RESPONDENT PHARMACY IS HEREBY NOTIFIED that pursuant to CRS §§12-22-110, 12-22-125, 12-22-125.2, 24-4-104, and 24-4-105, a hearing will be held before an authorized administrative law judge at a time and location to be determined pursuant to the preceding prehearing conference for the purpose of determining whether the registration of Respondent Pharmacy should be revoked or other lawful discipline imposed for a violation or violations of or pursuant to: CRS §§12-22-116(5), 12-22-119(2), 12-22-120(4), 12-22-120(7), 12-22-121(4), 12-22-122(1), 12-22-123(2), 12-22-125(1)(c) (I) through (III), 12-22-125(1)(d), 12-22-125(1)(k), 12-22-125(1)(o), 12-22-125.2, 12-22-126(1)(b), 12-22-126(1)(c), 12-22-126(1)(d), 12-22-126(1)(h) and 12-22-126(1)(m); and Pharmacy Board Rules 3.00.20, 5.01.40(a), 5.01.41(a) and (b), and 8.00.10, which provide as follows:

## **Colorado Revised Statutes**

### **12-22-125. Unprofessional conduct - grounds for discipline.**

(1) The board may suspend, revoke, refuse to renew, or otherwise discipline any license or registration issued by it, after a hearing held in accordance with the provisions of this section, upon proof that the licensee or registrant:

(c) Has violated:

(I) Any of the provisions of this part 1, including but not limited to any acts in section 12-22-126;

(II) The lawful rules of the board; or

(III) Any state or federal law pertaining to drugs.

(d) Is unfit or incompetent by reason of negligence, habits, or physical or mental illness, or for any other cause, to practice as such;

(k) Has failed to meet generally accepted standards of pharmacy practice;

(o) Has willfully deceived or attempted to deceive the board or its agents with regard to any matter under investigation by the board...

**12-22-125.2. Disciplinary actions.** (1) The board may deny or discipline an applicant, licensee, or registrant when the board determines that such applicant, licensee, or registrant has engaged in activities that are grounds for discipline.

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### **12-22-116. Licensure or registrations - applicability - applications - licensure requirements.**

(5) No applicant shall exercise the privileges of licensure or registrations until the license or registration has been granted by the board.

### **12-22-119. Prescription drug outlet under charge of pharmacist.**

(2) No prescription drug outlet shall commence business until it has made application for a registration and has received from the board a registration showing the name of the proprietor and the name of the manager. Upon transfer

of the ownership of a prescription drug outlet, an application to transfer the registration of said prescription drug outlet shall be submitted, and, upon approval of the transfer by the board, the registration shall be transferred to the new proprietor. Upon the change of name or location of a prescription drug outlet, the registrant shall submit an application to change the name or location, and, upon approval of the same and the payment of the fee therefor, a new registration showing the new name or new location shall be issued.

**12-22-120. Registration of facilities.**

(4) Registrations issued by the board pursuant to this section are transferable or assignable only pursuant to this article and rules established by the board.

(7) A separate registration shall be required under this section for any area outside the outlet that is not a satellite where pharmaceutical care and services are provided and for any such area that is under different ownership from the outlet.

**12-22-121. Compounding - dispensing - sale of drugs and devices.**

(4) An order shall be compounded or a prescription dispensed only from a registered prescription drug outlet or other outlet registered pursuant to section 12-22-120(1)(e).

**12-22-122. Prescription required - exception.**

(1) Except as provided in section 18-18-414, C.R.S., and subsection (2) of this section, an order is required prior to dispensing any prescription drug. Orders shall be readily retrievable within the appropriate statute of limitations.

**12-22-123. Labeling.**

(2) Except as otherwise required by law, any drug dispensed pursuant to a prescription order shall bear a label prepared and placed on or securely attached to the medicine container stating at least the name and address of the prescription drug outlet, the serial number and the date of the prescription or of its dispensing, the name of the drug dispensed unless otherwise requested by the practitioner, the name of the practitioner, the name of the patient, and, if stated in the prescription, the directions for use and cautionary statements, if any, contained in such prescription.

**12-22-126. Unlawful acts.**

(1) It is unlawful:

- (b) To obtain or dispense or to procure the administration of a drug by fraud, deceit, misrepresentation, or subterfuge, or by the forgery or alteration of an order, or by the use of a false name or the giving of a false address;
- (c) To willfully make a false statement in any order, report, application, or record required by this part 1;
- (d) To falsely assume the title of or to falsely represent that one is a pharmacist, practitioner, or registered outlet;
- (h) To sell, compound, dispense, give, receive, or possess any drug or device unless it was sold, compounded, dispensed, given, or received in accordance with sections 12-22-121 to 12-22-124;
- (m) To dispense any drug without complying with the labeling, drug identification, and container requirements imposed by law.

\* \* \*

### **Pharmacy Rules and Regulations**

**3.00.20 Medical Need.** No licensee or registrant shall compound, dispense, deliver or distribute any drug to any person in such quantity or in any situation where the licensee or registrant knows or reasonably should know said drug has no recognized medical utility or application. Violation of this rule shall constitute prima facie proof of violation of CRS 12-22-125.

The pharmacist may not dispense a prescription drug or a controlled substance to a practitioner based on an order that does not list a specific patient. A prescription order for “office use” is not a valid order.

### **5.01.40 Minimum Hours of Operation.**

a. The principal compounding/dispensing area of a prescription drug outlet shall be open for normal business a minimum of two designated days per week (Monday through Sunday) and at least four continuous hours on each such designated day.

### **5.01.41 Discontinuance.**

a. Discontinuance shall mean the permanent cessation of the practice of pharmacy in any prescription drug outlet.

b. Discontinuance shall be deemed to have occurred if the compounding/ dispensing area is not open for business the minimum hours specified in 5.01.40(a).

**8.00.10 Labels.** Only one address shall appear on a prescription label and that shall be the address of the prescription drug outlet from which the prescription was dispensed.

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RESPONDENT PHARMACY IS FURTHER NOTIFIED that at the hearing in this matter it shall have the right to appear by representative and/or by legal counsel; to present evidence in its own behalf; to cross-examine any witnesses presented by the State Board of Pharmacy; and to rebut any evidence presented by the State Board of Pharmacy. Respondent Pharmacy may also have subpoenas issued on its behalf upon request to the administrative law judge.

### **NOTICE OF CHARGES**

The State Board of Pharmacy charges and alleges as follows:

#### **General Allegations**

1. Respondent Pharmacy has been located in the State of Colorado at all relevant times.
2. The Board has jurisdiction over the Respondent Pharmacy, its registration as a prescription drug outlet, and the subject matter of this proceeding and the Notice of Charges pursuant to the provisions of CRS title 12, article 22, otherwise known as the Pharmaceuticals and Pharmacists Act.
3. Donald Coble, Pharm.D., is the Chief Executive Officer of DNC & Associates, Inc., which Owns Respondent Pharmacy
4. Dr. Coble is the CEO of Brighton Pharmacy, Inc. which owns Brighton Pharmacy.
5. Respondent Pharmacy's last known address of record with the Board is 1929 Egbert Street, Suite M, Brighton, Colorado 80601.

#### **Specific Allegations**

##### **A. Relocation of Respondent Pharmacy**

6. On March 2, 2006, Board staff received an application for the relocation of Respondent Pharmacy from 8894 North Washington Street, Thornton, Colorado 80229 ("Thornton location"), to 1929 Egbert Street, Suite M, Brighton, Colorado 80601 ("Brighton location").

7. The application requested that Respondent Pharmacy's relocation to the proposed Brighton location be effective as of March 15, 2006.
8. On March 2, 2006, the Board's Chief Inspector called Wendell Almeida, Pharmacist Manager of Respondent Pharmacy.
9. During the phone conversation on March 2, 2006, Mr. Almeida told the Chief Inspector that the pipes had frozen in the Thornton location on February 22, 2006, that there were approximately two to three inches of water in the Thornton location, that the drugs had not been damaged, and that they had been removed and relocated in Brighton Pharmacy, 1929 Egbert Street, Brighton, Colorado 80601.
10. During the phone conversation on March 2, 2006, Mr. Almeida told the Chief Inspector that the proposed Brighton location would not be ready for inspection until March 15, 2006.
11. The proposed Brighton location is in the basement of the same building in which Brighton Pharmacy is located.
12. On March 15, 2006 Board inspectors went to Respondent Pharmacy's proposed new location in Brighton, Colorado to conduct the initial inspection. They learned that all of Respondent Pharmacy's records, including daily printouts, invoices, prescription orders, computers and computer back-up tapes, had been left in the Thornton location and had not been moved to Brighton Pharmacy or the proposed Brighton location in the basement of the same building.
13. During the inspection on March 15, 2006, Dr. Coble stated to Board inspectors that the records had been left behind because they were "like oatmeal" due to the flood and were totally unsalvageable.
14. During the inspection on March 15, 2006, Dr. Coble stated to Board inspectors that he and Mr. Almeida had become sick upon entering the Thornton location after the flood, and that therefore they both refused to enter the building.
15. During the inspection on March 15, 2006, Dr. Coble stated to Board inspectors that the Thornton location was a hazard risk because it had asbestos everywhere.
16. The Chief Inspector withheld approval of Respondent Pharmacy's transfer application pending consultation with the Board about the untransferred records.
17. Dr. Coble and Mr. Almeida appeared in person before the Board at its regularly scheduled meeting on March 16, 2006.
18. During the Board meeting on March 16, 2006, Dr. Coble and Mr. Almeida reported that a flood had occurred on February 22, 2006 at the Thornton location.



19. During the Board meeting on March 16, 2006, Dr. Coble and Mr. Almeida reported that all of Respondent Pharmacy's drug stock had been moved to Brighton Pharmacy on February 22, 2006.
20. During the Board meeting on March 16, 2006, Dr. Coble and Mr. Almeida reported that all of Respondent Pharmacy's records had been left behind in the Thornton location because they were destroyed by the flood, and were "the consistency of oatmeal."
21. Dr. Coble and Mr. Almeida further reported to the Board on March 16, 2006 that all of Respondent Pharmacy's computers and back-up tapes had also been destroyed.
22. Dr. Coble and Mr. Almeida asserted to the Board on March 16, 2006 that they had both become ill after entering the premises, and reported it to be a health hazard that was likely contaminated with asbestos, mold, and/or other hazardous substances.
23. During the Board meeting on March 16, 2006, Dr. Coble and Mr. Almeida requested permission to destroy all of the records.
24. During the March 16, 2006 Board meeting, the Board instructed Dr. Coble and Mr. Almeida to get an inspector from the local health department to inspect the records in the Thornton location. If the records were contaminated and hopelessly damaged they could be destroyed, and the license transfer could be completed. If the records were intact and did not pose a health risk, they were to be relocated to the new location.
25. Dr. Coble agreed to comply with the Board's instructions issued on March 16, 2006 as stated above in paragraph 24.
26. On March 17, 2006, Board inspectors, together with Drug Enforcement Administration (DEA) investigators and a Tri-County health inspector, met at the Thornton location to inspect the premises. The health inspector and Board inspectors entered and inspected the premises.
27. On March 17, 2006 the health inspector took samples to detect the presence of asbestos in the Thornton location. No asbestos was found, but the records were wet and moldy.
28. To the Board's knowledge, none of the individuals who entered the Thornton location on March 17, 2006 fell ill or reported any illness after entering the premises.
29. On March 20, 2006 Board staff sent Dr. Coble and Mr. Almeida a letter stating they had the options to either: a) destroy the records in the Thornton location and provide a written statement to the Board of when, where and how the records had been destroyed, or b) relocate the records and provide a written statement to the Board of when the records were relocated.

30. On March 24, 2006, Dr. Coble and Mr. Almeida sent a letter to the Board notifying it that the records had been placed in hazardous materials containers and moved to 1929 Egbert Street in Brighton, Colorado.
31. On March 27, 2006, Board staff approved the application for the relocation of Respondent Pharmacy to the Brighton location, as instructed to do so by the Board upon resolution of the records issue.

**B. Dispensing Prescription Issued Solely on the Basis of Internet Questionnaire**

32. On March 21, 2006, the Board received a complaint from patient J.R. J.R. stated in the complaint that on March 14, 2006, he received a prescription for the prescription drug “Tamiflu” from Respondent Pharmacy’s Thornton location.
33. In his complaint, J.R. stated the prescription described above in paragraph 32 was issued solely on the basis of an internet-based questionnaire and that “at no time was my medical information verified.”
34. In his complaint, J.R. stated that he bought the prescription described above in paragraph 32 from an internet website called [www.maepharmacy.com](http://www.maepharmacy.com).
35. The order for the prescription described above in paragraph 32 indicates that it was issued by Dr. Robert Sawicki in New Jersey, and dispensed by Respondent Pharmacy at 8894 North Washington in Thornton, Colorado on March 14, 2006 at 8:15 p.m.
36. J.R. lives in Texas and Respondent Pharmacy sent the prescription to him in Texas.
37. The order for the prescription described above in paragraph 32 bears a handwritten note which includes the initial “W” in two locations.
38. The label for the prescription described above in paragraph 32 includes the word “Wendel” in the type on the label.
39. On March 21, 2006 the Board sent Respondent Pharmacy a copy of the complaint concerning the prescription to J.R., and afforded Respondent Pharmacy the opportunity to respond.
40. On April 10, 2006, Dr. Coble and Mr. Almeida filed a Response signed by both individuals, in which they admitted Respondent Pharmacy dispensed the prescription described above in paragraph 32.
41. Respondent Pharmacy dispensed and sent the prescription described above in paragraph 32 approximately 36 hours before Dr. Coble and Mr. Almeida appeared before the Board on March 16, 2006.

42. The April 10, 2006 Response indicated that Mr. Almeida had verified Dr. Sawicki's "license and DEA registration" on the New Jersey Board of Medical Examiner's website, and that the prescription described above in paragraph 32 "was verified by one of the agents of the physician."
43. The New Jersey Board of Medical Examiner's website does not contain DEA registrations. This information must be verified directly with the DEA.
44. On May 4, 2006, Board staff spoke to Dr. Sawicki by telephone. He stated he has no patient records for the patient J.R., denied issuing the prescription described above in paragraph 32 and denied ever having a patient by the name of J.R. He stated that it would have been impossible for Respondent Pharmacy to telephonically "verify" this prescription because he has no record of it to be verified.
45. During the phone conversation between Board staff and Dr. Sawicki on May 4, 2006, Dr. Sawicki stated that the only phone call he had received concerning a patient by the name of J.R. was this phone call by Board staff.
46. During the phone conversation between Board staff and Dr. Sawicki on May 4, 2006, Dr. Sawicki stated that the signature on the prescription order was forged.
47. Dr. Sawicki subsequently filed a police report with the Narcotics Bureau of the Linden, New Jersey Police Department based on the information he learned from Board staff during the May 4, 2006 telephone conversation.
48. On May 4, 2006, Dr. Coble stated to Board staff that Mr. Almeida had conducted the final evaluation for the prescription described above in paragraph 32.
49. The telephone number Board staff used to contact Dr. Sawicki was not the telephone number appearing on the prescription order as Dr. Sawicki's number. When Board staff called the number on the prescription order, there was a prolonged silence, then a faint message that was difficult to understand. The message stated something to the effect that the caller had reached "the New Jersey Medical Group" and instructed the caller to leave a message. Board staff did so but the call was never returned.

### **Grounds for Discipline**

#### **Count I**

50. Paragraphs 1 through 49 are incorporated herein by reference.

51. Beginning on or about February 22, 2006 until March 27, 2006, Respondent Pharmacy failed to maintain the minimum hours of operation of at least two designated days per week and at least four continuous hours on each designated day.
52. Failing to maintain the minimum hours of operation as a pharmacy violates Board Rule 5.01.40(a), and placed Respondent Pharmacy within the definition of “discontinuance” under Board Rule 5.01.41(b).
53. Respondent Pharmacy violated Board Rule 5.01.40(a), and thereby placed Respondent Pharmacy within the definition of “discontinuance” under Board Rule 5.01.41(b).

### **Count II**

54. Paragraphs 1 through 53 are incorporated herein by reference.
55. Beginning on or about February 22, 2006 through March 27, 2006, Respondent Pharmacy was not open during the minimum required hours.
56. Beginning in or about February 22, 2006 through March 27, 2006, Respondent Pharmacy’s registration was “discontinued” and therefore void.
57. On or around March 14, 2006, Respondent Pharmacy dispensed a prescription.
58. Respondent Pharmacy dispensed a prescription from an unregistered location.
59. Dispensing prescriptions constitutes the “practice of pharmacy” pursuant to CRS §12-22-102(26)(a).
60. Practicing pharmacy at an unregistered location violates CRS §§12-22-116(5), 12-22-119(2), 12-22-120(4), 12-22-120(7), 12-22-121(4) and 12-22-125(1)(k).
61. Respondent Pharmacy violated CRS §§12-22-116(5), 12-22-119(2), 12-22-120(4), 12-22-120(7), 12-22-121(4) and 12-22-125(1)(k).

### **Count III**

62. Paragraphs 1 through 61 are incorporated herein by reference.
63. The label on the March 14, 2006 prescription at issue indicates that it was dispensed by Respondent Pharmacy at 8894 North Washington in Thornton, Colorado.
64. Respondent Pharmacy’s registration for the Thornton location was “discontinued” and it was not a registered, functioning outlet on March 14, 2006.

65. Respondent Pharmacy falsely assumed the title of a registered outlet.
66. Falsely assuming the title of a registered outlet is an unlawful act pursuant to CRS §§12-22-126(1)(d) and 12-22-125(1)(k).
67. Respondent Pharmacy violated CRS §§12-22-126(1)(d) and 12-22-125(1)(k).

#### **Count IV**

68. Paragraphs 1 through 67 are incorporated herein by reference.
69. Respondent Pharmacy failed to state on the prescription label the address from which the prescription was actually dispensed.
70. Failure to state on the prescription label the address from which the prescription was actually dispensed violates Board Rule 8.00.10 and CRS §12-22-123(2), and is an unlawful act pursuant to CRS §§12-22-125(1)(k), 12-22-126(1)(b), 12-22-126(1)(h), and 12-22-126(1)(m).
71. Respondent Pharmacy violated Board Rule 8.00.10, and CRS §§12-22-123(2), 12-22-125(1)(k), 12-22-126(1)(b), 12-22-126(1)(h), and 12-22-126(1)(m).

#### **Count V**

72. Paragraphs 1 through 71 are incorporated herein by reference.
73. Respondent Pharmacy willfully made a false statement in a prescription record.
74. Willfully making a false statement in any order, report, application, or record is an unlawful act pursuant to CRS §§12-22-125(1)(k) and 12-22-126(1)(c).
75. Respondent Pharmacy violated CRS §§12-22-125(1)(k) and 12-22-126(1)(c).

#### **Count VI**

76. Paragraphs 1 through 75 are incorporated herein by reference.
77. Respondent Pharmacy dispensed a drug by fraud, deceit, misrepresentation, or subterfuge, and/or by the giving of a false address.
78. Dispensing a drug by fraud, deceit, misrepresentation or subterfuge, or by the giving of a false address is an unlawful act pursuant to CRS §§12-22-125(1)(k) and 12-22-126(1)(b).
79. Respondent Pharmacy violated CRS §§12-22-125(1)(k) and 12-22-126(1)(b).

### **Count VII**

80. Paragraphs 1 through 79 are incorporated herein by reference.
81. Respondent Pharmacy dispensed a drug to a person in a situation where it knew or should have known the drug had no recognized medical utility or application.
82. Dispensing a drug to a person in any situation where the licensee or registrant knows or reasonably should know said drug has no recognized medical utility or application violates Board Rule 3.00.20, and CRS §§12-22-125(1)(d) and 12-22-125(1)(k).
83. Respondent Pharmacy violated Board Rule 3.00.20, and CRS §§12-22-125(1)(d) and 12-22-125(1)(k).

### **Count VIII**

84. Paragraphs 1 through 83 are incorporated herein by reference.
85. Respondent Pharmacy dispensed a prescription under circumstances in which a reasonable pharmacist should have known or suspected the order was invalid.
86. Dispensing a drug without a valid order violates CRS §§12-22-122(1), 12-22-125(1)(d) and 12-22-125(1)(k).
87. Respondent Pharmacy violated CRS §§12-22-122(1), 12-22-125(1)(d) and 12-22-125(1)(k).

### **Count IX**

88. Paragraphs 1 through 87 are incorporated herein by reference.
89. Respondent made the false and/or deceptive statements that it had ceased operations at the Thornton location, that it had verified Dr. Sawicki's "license and DEA registration" on the New Jersey Board of Medical Examiner's website, and that it had verified the prescription "by one of the agents of the physician."
90. CRS §12-22-125(1)(o) provides that the Board may suspend, revoke, refuse to renew, or otherwise discipline any license or registration issued by it, after a hearing, upon proof that the licensee or registrant has willfully deceived or attempted to deceive the Board or its agents with regard to a matter under investigation by the Board.
91. Respondent Pharmacy violated CRS §§12-22-125(1)(o) and 12-22-125(1)(k).

### **Count X**

92. Paragraphs 1 through 91 are incorporated herein by reference.
93. Respondent Pharmacy failed to meet generally accepted standards of pharmacy practice.
94. Failure to meet generally accepted standards of pharmacy practice violates CRS §12-22-125(1)(k).
95. Respondent Pharmacy violated Board Rule CRS §12-22-125(1)(k).

**Count XI**

96. Paragraphs 1 through 95 are incorporated herein by reference.
97. CRS §12-22-125(1)(c) provides that the Board may suspend, revoke, refuse to renew, or otherwise discipline any license or registration issued by it, after a hearing, upon proof that the licensee or registrant has violated any acts in CRS §12-22-126, any lawful rules of the Board, or any state or federal law pertaining to drugs.
98. Respondent Pharmacy violated CRS §§12-22-125(1)(c) and 12-22-126.

WHEREFORE, the Board prays for an Order revoking, suspending, or otherwise appropriately disciplining Respondent Pharmacy's registration as a prescription drug outlet, and for such other relief as deemed proper and just.

DATED this \_\_\_\_ day of \_\_\_\_\_ 2006.

JOHN SUTHERS  
Attorney General

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JOANNA LEE KAYE, #20486\*  
Assistant Attorney General  
Business and Licensing Section

Attorneys for State Board of Pharmacy

1525 Sherman Street, 5th Floor  
Denver, Colorado 80203  
Telephone: (303) 866-6170  
FAX: (303) 866-5395  
\*Counsel of Record

**CERTIFICATE OF SERVICE**

This is to certify that I have duly served the within **AMENDED ORDER OF SUMMARY SUSPENSION, NOTICE OF DUTY TO ANSWER, NOTICE TO SET AN INFORMAL PREHEARING CONFERENCE, NOTICE OF HEARING, AND NOTICE OF CHARGES** upon all parties herein by depositing copies of same in the United States mail, first class postage prepaid, at Denver, Colorado, this \_\_\_\_ day of \_\_\_\_\_ 2006, addressed as follows:

Donald Coble  
1929 Egbert Street, Suite M  
Brighton, Colorado 80601

and via interoffice mail:

Joanna Lee Kaye  
Assistant Attorney General  
1525 Sherman St., 5<sup>th</sup> Floor  
Denver, Colorado 80203

Wendy Anderson  
Program Director  
State Board of Pharmacy  
1560 Broadway, Suite 1310  
Denver Colorado 80202-7764

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